

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE:
LOCAL TV ADVERTISING ANTITRUST
LITIGATION

MDL No. 2867

No. 18 CV 6785

Honorable Virginia M. Kendall

**STIPULATION AND ORDER
REGARDING DEFENDANTS' PRODUCTION OF DOCUMENTS UNDER SPECIAL
MASTER REVIEW**

By and through their undersigned counsel, the parties hereby state as follows:

WHEREAS, on February 6, 2023, the Court appointed the Hon. Richard A. Levie as Special Master to resolve Plaintiffs' motions to compel regarding documents Defendants had withheld on privilege and related grounds (ECF 920);

WHEREAS, on July 28, 2023, the Special Master submitted to the Court his Special Master Report and Recommendation No. 1 (ECF 1030) ("R&R No. 1");

WHEREAS, on August 18, 2023, Defendants filed Omnibus Objections to R&R No. 1 (ECF 1052); on September 1, 2023, Plaintiffs filed a Response to Defendants' Omnibus Objections to R&R No. 1 (ECF 1060); on September 7, 2023 Defendants filed a Reply in Support of Defendants' Omnibus Objections to R&R No. 1 (ECF 1064); and on September 8, 2023, the Court heard oral argument on Defendants' Omnibus Objections to R&R No. 1 (*see* Sep. 8, 2023 Hr'g Tr.);

WHEREAS, on January 16, 2024, the Court issued a Memorandum Opinion & Order accepting in full R&R No. 1 (ECF 1100) ("January 2024 Order");

WHEREAS, on April 16, 2024, the Special Master submitted to the Court his Special Master Report and Recommendation No. 2 (ECF 1114) (“R&R No. 2”), which the Special Master characterized as essentially “an addendum to Report & Recommendation No. 1” (ECF 1114 at 1);

WHEREAS, on April 30, 2024, Defendant Nexstar filed Objection to R&R No. 2 (ECF 1120); on May 7, 2024, Plaintiffs filed a Response to Nexstar’s Objection to R&R No. 2 (ECF 1124); and on May 13, 2024, Nexstar filed a Reply in Support of Nexstar’s Objection to R&R No. 2 (ECF 1125);

WHEREAS, on May 10, 2024, and June 9, 2024, the Special Master requested that Defendants apply the recommendations and legal principles detailed in R&R No. 1 and R&R No. 2 to the remaining documents identified on their privilege logs that Plaintiffs have challenged and, based on that process and their good faith judgment, remove any applicable documents from their privilege logs and produce those documents to Plaintiffs;

WHEREAS, Defendants seek to ensure that they preserve, and do not waive, any and all pre-existing rights and/or objections, if any, with respect to any additional documents Defendants remove from their logs and produce to Plaintiffs; and

WHEREAS, the parties previously negotiated and agreed to a Stipulation and Federal Rule of Evidence 502(d) Order, which the Court entered on February 11, 2021 (ECF 443) (the “502(d) Order”);

It is hereby ORDERED that:

1. To the extent Defendants remove challenged documents from their privilege logs and produce those documents based on application of the recommendations and legal principles in R&R Nos. 1 and 2, such production shall be made pursuant to the 502(d) Order and:

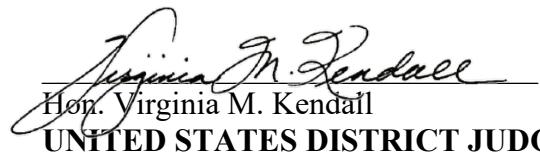
a. shall not, standing alone, waive (and not be deemed to waive), with respect to the additional documents, in the above-captioned litigation or any other federal or state proceeding, any previous assertion of attorney-client privilege, work product protection, or common interest privilege – as applicable in each instance – including as set forth in Defendants' Omnibus Objections to R&R No. 1, Nexstar's Objection to R&R No. 2, and the objections and arguments as set forth in each Defendant's underlying motion to compel briefing; and

b. shall not, standing alone, waive or otherwise impact any rights Defendants may have to appeal issues addressed in R&R No.1, R&R No. 2, or the Court's January 2024 Order with regard to any additional documents Defendants remove from their privilege logs and produce to Plaintiffs, which rights are expressly and fully preserved. For the sake of clarity, this paragraph shall not expand any pre-existing rights to appeal.

2. For the sake of clarity, this Stipulation and Order applies only to documents Defendants remove from their privilege logs and produce based on application of the recommendations and legal principles in R&R Nos. 1 and 2. Nothing in this Stipulation and Order applies to documents Special Master Levie specifically recommends Defendants produce where such recommendation is not appealed (or if appealed, such recommendation is accepted by the Court and, if applicable, ultimately affirmed by the appellate court).

3. Nothing in this Stipulation and Order limits in any way Plaintiffs' ability to use documents produced by Defendants to Plaintiffs pursuant to this Stipulation and Order as permitted under the Confidentiality Order, ECF 94, and subject to any Court Order that addresses any challenge or appeal of R&R Nos. 1 and 2 by Defendants.

IT IS SO ORDERED on this 28th day of June, 2024.


Hon. Virginia M. Kendall
UNITED STATES DISTRICT JUDGE

Dated: June 26, 2024

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